To the Chairman and Members of the
PLANNING REGULATORY BOARD Date 4 OCTOBER 2018

Report of the Director of Planning and Regeneration Service

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1 Page No. 101	**Government Consultation** Consultation on views on the principle of granting planning permission for non-hydraulic shale gas exploration development through a permitted development right. **Recommendation** That the responses set out in Appendix 1 form the Council's response to the consultation document.
2 Page No. 110	**Government Consultation** Consultation on inclusion of shale gas production projects in the Nationally Significant Infrastructure Project (NSIP) regime **Recommendation** That the responses set out in Appendix 1 form the Council's response to the consultation document.
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ROTHERHAM METROPOLITAN BOROUGH COUNCIL PLANNING REGULATORY BOARD

PLANNING AND REGENERATION SERVICE REPORT TO COMMITTEE **4 OCTOBER 2018**

ITEM 1

Government Consultation	Consultation on views on the principle of granting planning permission for non-hydraulic shale gas exploration development through a permitted development right.
Recommendation	That the responses set out in Appendix 1 form the Council's response to the consultation document.

Background:

A Consultation paper on proposed planning reforms for exploratory shale gas development in England has been launched by the government (see Appendix 1). The purpose of this Consultation is to seek views on the principle of whether non-hydraulic fracturing shale gas exploration development should be granted planning permission through a permitted development right, and in particular the circumstances in which it would be appropriate. This would in effect mean that the applications the Council has recently determined at Harthill and Woodsetts for exploratory drills would become permitted development, and would not require full planning permission. Any permitted development right would not apply to the appraisal and production operations of shale gas extraction. Consultation closes on 25th October 2018.

The Consultation follows the publication of a written ministerial statement on the 17 May 2018, in which the government announced a range of measures to facilitate timely decision making on shale exploration planning applications. It reiterated the Government's view that there are substantial benefits from the safe and sustainable exploration and development of onshore gas resources and that the Government expects Minerals Planning Authorities to give great weight to the benefits of mineral extraction, including to the economy.

The supporting text to the Consultation states that with the government committed to ensuring that strong safeguards are in place, any new permitted development right would have to abide by both environmental and site protection laws and would not apply to exploratory drilling in sensitive areas (such as Areas of Outstanding Natural Beauty). It adds that exploratory drilling for shale deposits are treated separately to full hydraulic shale gas extraction (fracking), and that both will remain subject to strict planning and environmental controls.

The Consultation document notes that recent decisions on shale exploration planning applications remain disappointingly slow against a statutory time frame.

The Consultation document notes that the government will also consult on whether developers should be required to undertake pre-application community engagement prior to submitting a planning application for shale gas development and that this separate consultation will be launched in autumn 2018.

Permitted development rights

Permitted development rights are a national grant of planning permission. They
provide a simpler, more certain route to encourage development and speed up
the planning system, and reduce the burden on developers and local planning authorities by removing the need for planning applications.

Permitted development rights are set out in the Town and Country Planning (General Permitted Development) (England) Order 2015. The Order sets out both what is allowed under each permitted development right, and any exclusions, limitations and conditions that apply to comply with the legal duty to mitigate the impact of development granted under permitted development. For example, most permitted development rights are subject to conditions that seek to minimise their impact and to protect local amenity. Others are subject to geographic exclusions to ensure environmental protections are maintained.

If a proposal falls outside permitted development rights, it requires the submission of a planning application to the local planning authority so that the authority can consider all the circumstances of the case.

Permitted development only covers the planning aspects of the development. It does not remove requirements under other regimes such as environmental licensing and permitting or requirements under environmental legislation.

In April 2016 the Town and Country (General Permitted Development)(England) Order 2015 was amended to allow for development consisting of the drilling of boreholes for the purpose of carrying out ground water monitoring and seismic monitoring which is preparatory to potential petroleum exploration (which includes shale gas). These permitted development rights are subject to restrictions and conditions. This consultation paper proposes to extend these permitted development rights to the exploratory phase of oil and gas extraction.

Finally, the House of Commons Housing Communities and Local Government Select Committee carried out an inquiry between January and June 2018 in respect of a number of issues relating to shale gas exploration and production. It concluded that: “Shale gas development of any type should not be classed as a permitted development. Given the contentious nature of fracking, local communities should be able to have a say in whether this type of development takes place, particularly as concerns about the construction, locations and cumulative impact of drill pads are yet to be assuaged by the Government.”

Response to Consultation

The recommended responses to the Consultation document is set out in Appendix 1 and concludes, in line with the House of Commons Select Committee, that shale gas exploration should not be classed as permitted development. This is primarily as it would potentially remove altogether, or if a 'prior approval' process is used reduce, the opportunity for local residents and other interested parties to be fully engaged in the decision making process.

Permitted development rights should only be used to free up the planning system by allowing uncontroversial and limited impact development to be granted. The Council does not consider that this should relate to shale gas exploration for the reasons given in the responses below.

APPENDIX 1 – Response to the consultation

The definition of non-hydraulic fracturing

Question 1

a) Do you agree with this definition to limit a permitted development right to non-hydraulic fracturing shale gas exploration?

NO

Note:
paragraph 20 of the Consultation document indicates that the purpose would be to allow "operations to take core samples for testing purposes" (i.e. the core samples would be tested). However, the suggested definition indicates there would be a testing period not exceeding 96 hours, with the OGA Consolidated Onshore Guidance explaining that "when testing a discrete section of the well, each section can be produced for a maximum of 96 hours but the total quantity of oil produced from all sections should not exceed 2,000 tonnes per section". This means the suggested definition would allow for a degree of production, which seems to contradict the approach that is being taken in paragraph 20. As such, the Council does not agree with the proposed definition.

b) If No, what definition would be appropriate?

"Boring for natural gas in shale or other strata encased in shale for the purposes of searching for natural gas and associated liquids by obtaining borehole logs and taking core samples for testing purposes"

There is a fundamental difference between collecting geological information in the form of borehole logs and core samples and testing the in situ rock (either with or without fracturing). Officers are of the view that there would not be an issue with putting gas monitoring equipment on top of the borehole for 96 hours to record any 'natural' flows of gas due to the pressure release. To not

do so would be a missed opportunity in terms of data collection.

Question 2
Should non-hydraulic fracturing shale gas exploration development be granted planning permission through a permitted development right?

NO

Note:
The Council does not consider that any such non-hydraulic fracturing exploration should be permitted development, primarily as it would remove the local level of decision making and local accountability that communities expect. Whilst exploratory drills are not for full hydraulic fracturing (fracking), they can still have a significant impact on the locality, as evidenced at Harthill and Woodsetts. The correct route for such development is through the normal planning application and, where necessary, appeal process.

Although the Government has stated that it remains fully committed to ensuring that local communities are fully involved in planning decisions that affect them, it remains to be seen how the permitted development process would enable full public involvement as the purpose of the consultation is to take shale gas exploration out of the current planning process.

In addition, paragraph 34 of the consultation document acknowledges that it is unclear how effective the proposed legislation would be (in the Government's aim to further the industry) given it envisages a range of exclusions, limitations and restrictions. This shows that these types of proposals would result in multiple and complex planning issues which require expert consideration by planning and regulatory experts with local knowledge on a case by case basis.

If the key aim of the proposal is to speed up the planning process, then full pre-application engagement is recommended between the applicant and the Council (which did not take place at two recent exploratory drill sites within the Rotherham Borough at Harthill or Woodsetts). The most recent Woodsetts application was determined within the 13 week target period, albeit it for refusal due to concerns that Members had in respect of the proposals. In addition, the applicant can refuse to extend the time period for determining the application if it is considered that the Council is taking too long to determine an application, and appeal against non-determination.

If shale gas exploration development was to be defined as permitted development the limitations list would have to be very carefully worded to cover all the possible impacts and issues which might fall to be considered in the planning arena for each any every possible site. These would then have to be enforceable which would no doubt be via an enforcement notice for unauthorised development if it fell outside those permitted. If only one aspect was breached the Council would have to consider whether it would be expedient to take enforcement action bearing in mind the undoubted public pressure the authority would be put under to act.

Development not permitted

Question 3

a) Do you agree that a permitted development right for non-hydraulic fracturing shale gas exploration development would not apply to the following?

Areas of Outstanding Natural Beauty
National Parks
The Broads
World Heritage Sites
Sites of Special Scientific Interest
Scheduled Monuments
Conservation areas
Sites of archaeological interest
Safety hazard areas
Military explosive areas
Land safeguarded for aviation or defence purposes
Protected groundwater source areas

YES

Note:
This appears to be a relatively comprehensive list and, as such, the Council agrees with the suggested list of excluded areas where permitted development rights would not apply. Additionally, if the development would be EIA development then the new rights do not apply and it is considered that it would be useful to make reference to this within this list of restrictions.

b) If No, please indicate why.

N/A

c) Are there any other types of land where a permitted development right for non-hydraulic fracturing shale gas exploration development should not apply?

NO

Development conditions and restrictions

Question 4

What conditions and restrictions would be appropriate for a permitted development right for non-hydraulic shale gas exploration development?

Notwithstanding the Council's opposition to any form of permitted development right, such rights should not apply where an application on the site has been submitted and is being considered, or has been refused and any related appeal is either ongoing or has been dismissed.
Any permitted development should be subject to the prior approval process (see Q5 below).

Prior approval

Question 5

Do you have comments on the potential considerations that a developer should apply to the local planning authority for a determination, before beginning the development?

Similar to other prior approval categories within the General Permitted Development Order, the developer should apply to the Local Planning Authority for a determination as to whether the prior approval of the authority will be required as to (amongst others)—

(a) transport and highways impacts
(b) noise impacts
(c) ecological impacts
(d) impacts on hedgerows and trees
(e) visual impact on landscape
(f) archaeological impact
(g) heritage impact
(h) contamination risks
(i) flooding risks
(j) cumulative impact with other similar developments

Where prior approval is required, the development must be carried out in accordance with the details approved by the local planning authority.

Note:
Paragraph 33 of the Consultation paper states: "By way of example, the prior approval considerations might include transport and highway impact, contamination issues, air quality and noise impacts, visual impacts, proximity of occupied areas, setting in the landscape and could include elements of public consultation". The considerations set out in the Council's response above are very similar to those that would be covered in a planning application, but without the democratic decision making process involved in a planning application.

When dealing with the two sites at Harthill and Woodsetts, there were a significant amount of site specific issues that had to be considered as part of the planning process. The Council remains concerned about the effectiveness of generic conditions or restrictions being used to mitigate the specific impacts at different sites. This highlights why this type of development is not suitable for the permitted development regime.

In addition, it is presumed that such applications would require publicity (as other prior approval applications do) and in view of the likely significant interest that such a proposal would generate, the prior approval route is not considered appropriate for such development.

The amount of work involved (officer time and cost) would be comparable to that of a planning application, albeit with no planning application fee associated with it. It would be unreasonable to significantly increase the workload of the Council in this way without covering the associated costs for the work that would need to be undertaken and which would allow the Council to properly resource the work. It would not be practical to address this through a Planning Performance
Agreement (PPA), where the applicant could agree to cover the costs generated by the Council, as it would rely on the goodwill of the applicant/developer to pay the authority, with no requirement for them to do so. Indeed, despite requests for the applicant to enter into a PPA for both the Harthill and Woodsetts sites, no such agreement was reached.

The 'shale wealth fund' provides funds to Councils for additional work generated by shale gas applications and the continuation/expansion of the shale wealth fund to guarantee funds to Councils to deal with any prior approval applications would be

welcomed.

Finally, there are concerns about the amount of time that would be given to consider the issues set out under the prior approval application. Many existing prior approval subjects give a limited time period for the Council to determine the application, and if the application is not determined within the specified time period (which can be as little as 28 days) then the development is effectively granted. Such a time period would not be adequate to consider the issues listed in Paragraph 33 of the Consultation document. Some prior approval subjects allow for extensions of time to be agreed between the Council and the applicant, but if the applicant does not agree to such an extension, the Council would no doubt be forced to refuse the details, thereby slowing down the process.

Time-period for a permitted development right

Question 6

Should a permitted development right for non-hydraulic fracturing shale gas exploration development only apply for 2 years, or be made permanent?

2 years

Note:
The Council has interpreted this question as asking whether the permitted development rights should be changed permanently, or whether they should be trialled for a two year period before being made permanent. The response is based on that assumption.

Given the clear lack of understanding as to the impact that the changes would have,
or how effective they would be, going ahead with permanently changing the permitted development rights would seem to be quite a risk. However, it would be less risky for the Government to make the change temporary with the option to remove the permitted development rights in two years' time, rather than permanently changing them. This two year trial would allow for a full assessment of the effectiveness of the permitted development regime for this type of development and enable Government and Councils to judge what the impacts have been and whether any exploratory development has been sufficiently controlled and its impacts properly mitigated. As such, it is considered that 2 years would be acceptable.

Public sector equality duty

Question 7

Do you have any views the potential impact of the matters raised in this consultation on people with protected characteristics as defined in section 149 of the Equalities Act 2010?

The Council has no comments in this respect.

ITEM 2

Government Consultation	Consultation on inclusion of shale gas production projects in the Nationally Significant Infrastructure Project (NSIP) regime
Recommendation	That the responses set out in Appendix 1 form the Council's response to the consultation document.

Background:

The Consultation document notes that this initial consultation seeks views on the timings and criteria for major production phase shale gas projects (where 'fracking' takes place) to be included in the Nationally Significant Infrastructure Project regime under the Planning Act 2008. Responses have to be submitted by 25th October 2018.

The Consultation document states that: "The government recognises that the development of shale gas needs to be alongside support from the local communities which could potentially benefit. Local communities must be fully involved in planning decisions and any shale planning application – whether decided by councils or government. Currently, any organisation wishing to undertake a shale gas development must submit its planning applications to local Mineral Planning Authorities under the Town and Country Planning Act 1990.

The Planning Act 2008 created a planning process for Nationally Significant Infrastructure Projects in fields of development including energy, water, waste water, road and rail transport and hazardous waste disposal. For projects falling within scope of what is defined in the Planning Act 2008 as a Nationally Significant Infrastructure Project, this becomes the only route for obtaining planning consent. The Planning Act 2008 defines the type and scale of infrastructure developments considered to be nationally significant and therefore required to obtain development consent. The final decision for granting development consent rests with the relevant Secretary of State depending on the type of infrastructure project.

If the Planning Act 2008 was amended to include major shale gas production projects as a Nationally Significant Infrastructure Project, then all future shale gas production projects that met defined threshold(s) would have to apply for development consent within the Nationally Significant Infrastructure Project regime. This would only apply to production phase projects, however, and not exploration or appraisal projects for which planning applications would continue to be considered under the Town and Country Planning Act 1990 [subject to the separate proposals to make exploratory drilling permitted development].

Automatically including eligible major shale gas production projects into the Nationally Significant Infrastructure Project regime would bring such applications into a well-defined process with clear, established governance and timelines designed for larger and more complex infrastructure projects. This would bring such shale gas production projects in line with other energy

projects of national significance such as the development of wind farms and gas fired generation stations. In this case, the final decision for granting or refusing development consent would rest with the Secretary of State for the Department of Business, Energy & Industrial Strategy (BEIS)."

The Consultation document adds that: "Under the Planning Act 2008, an operator wishing to construct a Nationally Significant Infrastructure Project must submit a development consent application to the Secretary of State. As part of this process, the operator will need to have assessed any likely significant impacts of the proposed project. For such projects, where an application is accepted, the Secretary of State will appoint an 'Examining Authority' to examine the application in accordance with any relevant National Policy Statement. The Examining Authority will be arranged by the Planning Inspectorate and will be either a single Inspector or a panel of between two and five Inspectors.

The examination will take into account any information and have regard to any local impact report submitted by the local authority as well as representations from statutory bodies, non-governmental organisations and other interested parties including the local community. Once the examination has been concluded, the Examining Authority will reach its conclusions and make a recommendation to the Secretary of State, who will make the decision on whether to grant or to refuse consent."

Finally, the House of Commons Housing Communities and Local Government Select Committee carried out an inquiry between January and June 2018 in respect of a number of issues relating to shale gas exploration and production. It concluded that:
"There is little to be gained from bringing fracking planning applications at any stage under the NSIP regime; there is limited evidence that it would expedite the application process and such a move is likely to exacerbate existing mistrust between local communities and the fracking industry. We are particularly concerned that if the NSIP regime were adopted, there would be no relationship between fracking applications and Local Plans in communities. Furthermore, we note that the Government has not provided any justification or evidence for why fracking has been singled out to be included in a national planning regime in contrast to general mineral applications.

Fracking planning applications should not be brought under the NSIP regime. While we note that the NSIP regime does provide opportunities for consultation with Mineral Planning Authorities and local communities, such a move could be perceived as a significant loss to local decision-making. Mineral Planning Authorities are best placed to understand their local area and consider how fracking can best take place in their local communities.

Despite our recommendation above and the overwhelming evidence we received, if NSIP were to be used for fracking applications, it is essential that a National Policy Statement is prepared as a matter of urgency that would include suitable measures to restrict inappropriate proliferation of well-pads and unacceptable impacts on landscapes. We consider that the North

Yorkshire Draft Joint Minerals and Waste Plan offers an appropriate template for such guidance. While we note that the Government stated that the issue of cumulative impact "would be addressed on a case by case basis as part of the NSIP examination process," the National Policy Statement should ensure that it is considered automatically as part of every determination. Every decision should also be consistent with Local Plans."

Response to Consultation

The recommended responses to the Consultation questions are set out in Appendix 1 and conclude, in line with the House of Commons Select Committee, that it is not considered that major shale gas production projects should be included in the Nationally Significant Infrastructure Project regime, primarily as the ultimate decision making process would be removed from the Council.

APPENDIX 1 – Response to consultation

Consultation questions:

Q1. Do you agree with the proposal to include major shale gas production projects
in the Nationally Significant Infrastructure Project regime?

Answer:
No.

Q2. Please provide any relevant evidence to support your response to Question 1.

Answer:
The NSIP process requires people living in the vicinity of the site have to be consulted on proposed projects at the pre-application stage, and this is welcomed, and it also allows the Council and local residents etc to input into the decision making process at any subsequent Examination of the application. However, the ultimate decision is taken by the Secretary of State. The Council can see a strong argument for decisions on fracking applications remaining at a local level, i.e. by Members of the Planning Board following consideration of committee reports compiled by planning officers. This provides the most democratic method of decision making, and includes a fair and transparent process that leads to the Council's ultimate decision on any specific proposal. Objectors and supporters alike are given the opportunity to speak at Planning Board meetings and if decisions were not made at the local level this opportunity may be lost.

In addition, shale gas proposals, even at the early stages, are extremely demanding on resources, particularly professional planning, legal and support staff. The Council would continue to have a significant role in the process from

the pre-application stage right through to the monitoring and enforcement of any Development Consent Order, along with the conditions attached, as well as agreeing the terms of any S106 agreement. This involvement would take up considerable time and resources with no fee being paid to the Council as the planning fee for these proposals would be paid to the Planning Inspectorate. As such, should the proposals be adopted then Councils would need to be resourced accordingly, perhaps through the continuation of the 'shale gas fund'.

Q3. If you consider that major shale gas production projects should be brought into
the Nationally Significant Infrastructure Project regime, which criteria should be used to indicate a nationally significant project with regards to shale gas production? Please select from the list below:
a. The number of individual wells per well-site (or 'pad')
b. The total number of well-sites within the development

Answer:
The Consultation document states that: "since shale gas is within very low permeability rock the gas does not easily flow. Therefore, to access and produce commercial amounts of natural gas multiple horizontal wells are drilled and hydraulically fractured. The number of horizontal wells will vary depending on the geology and gas properties, however, with multiple wells from one well-site and potentially multiple well-sites within a Petroleum Exploration and Development Licence this could provide criteria for when a production project is nationally significant."

It is unlikely that an individual site (or pad) would be of "national significance", irrespective of the number of wells. The point at which a multi-pad scheme would be nationally significant would differ from site to site, and there would need to be some kind of preventative measure to stop sites over a wide geographical area being bundled together as one NSIP application when they are not actually part of the same development.

c. The estimated volume of recoverable gas from the site(s)
d. The estimated production rate from the site(s), and how frequently (e.g. daily,
monthly, annually or well lifetime)

Answer:
It is considered that the volume of resource/production is the best indicator as to whether a scheme is of national significance. However, there are serious concerns given the inherent uncertainty with 'estimated' volumes, be it recoverable volumes or production rates, which could be manipulated to be in/out of the NSIP process.

e. Whether the well-site has/will require a connection to the local and/or national
gas distribution grid.

Answer:
A well site, or sites, not connected to the grid may well have greater impacts, particularly in respect to ongoing traffic movements, although these would be local impacts and should be considered as part of the normal application planning process. Connection to the grid may indicate a larger and more significant scheme, though it might just be because there is a grid connection near to the proposed development site. It is considered that this would not be a useful criteria for determining national significance.

f. Requirement for associated equipment on-site, such as (but not limited to) water
treatment facilities and micro-generation plants.

Answer:
Once again, these are considered to be local impacts and should be considered as part of the normal application planning process. With regard to generation, there are plenty of natural gas sites (coal mine methane) within the region that include micro-generation 1-2MW per engine and up to three engines at some sites. These sites are clearly not nationally significant, so it is suggested that there would need to be a MW threshold set reasonably high, such as 50MW (although this would trigger the NSIP process itself anyway).

g. Whether multiple well-sites will be linked via shared infrastructure, such as gas
pipelines, water pipelines, transport links, communications, etc.

Answer:
The likelihood of multiple sites all being linked under a single application are unlikely and each multiple site would have been assessed separately as part of the normal planning application process. If a proposed multiple site is to be linked to an already approved multiple site, then the required connection implications could be considered as part of the normal planning application process.

h. A combination of the above criteria – if so please specify which
i. Other – if so please specify

Answer:
No further comment.

Q4. Please provide any relevant evidence to support your response(s) to Question 3.

Answer:
As set out in Q3 above.

Q5. At what stage should this change be introduced? (For example, as soon as
possible, ahead of the first anticipated production site, or when a critical mass of shale gas exploration and appraisal sites has been reached).

Answer:
It is not considered that the change should be introduced at all, for the reasons set out above. In addition, at this stage it is unknown whether there is economically recoverable shale gas available.

Q6. Please provide any relevant evidence to support your response to Question 5.

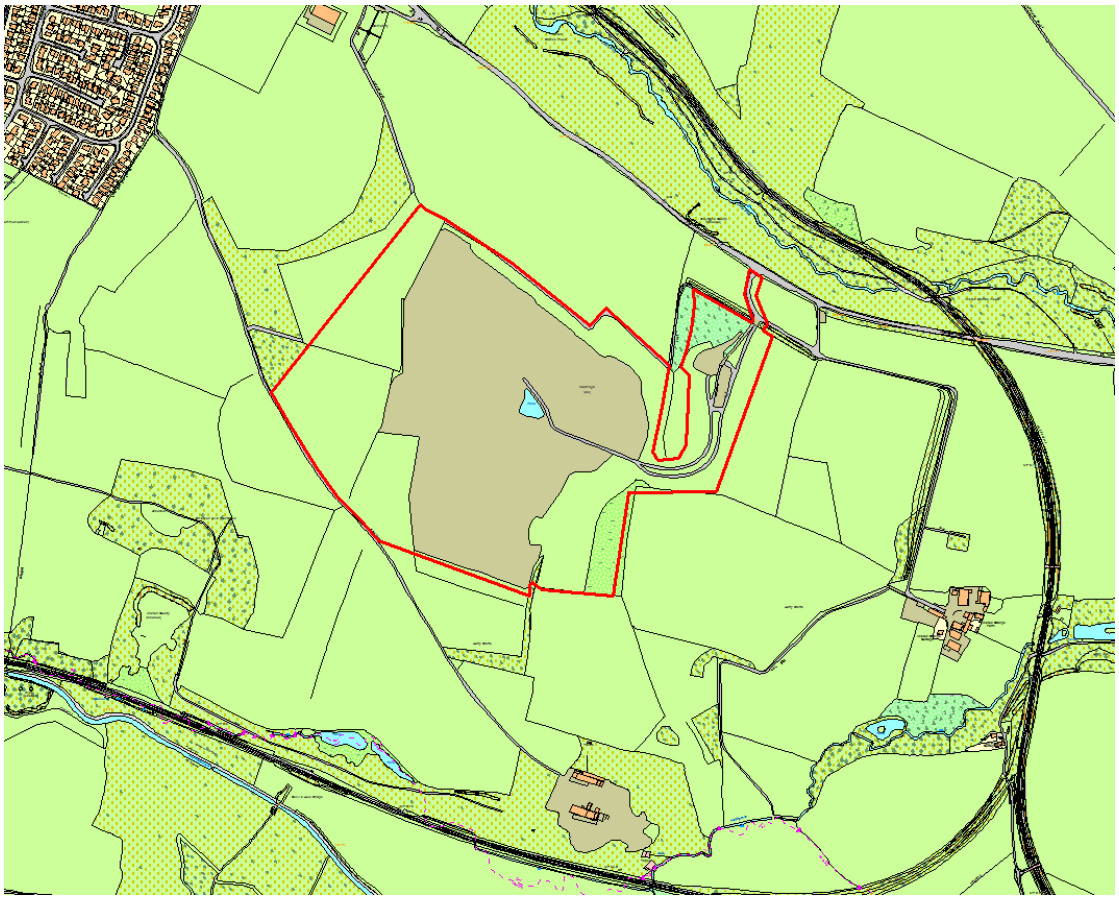
Answer:
No further comment.

ITEM 3

Appeal Decision - RB2016/1539 - Harrycroft Quarry, Worksop Road, South Anston

Proposed development:

The application was to vary conditions 01 (proposed plans), 02 (site restoration), 15 (restoration works), 16 (site opening hours), 17 (loading of stone), 18 (recycling), 23 (deliveries), 26 (field noise level), 28 (blasting operations), 29 (blasting charges), 33 (topsoil & subsoil workings), 34 (controlled skipping), 36 (restoration work), 37 (graded tipped surfaces), 40 (trees, shrubs & hedgerows), 41 (phase plans) imposed by RB2010/1308 at Harrycroft Quarry, Worksop Road, South Anston. The permission would have effectively allowed the quarry to re-open as the period of consent had lapsed – reference RB2016/1539.



Recommendation

1. That Members note the decision to ALLOW the appeal, in accordance with the terms of the application Ref RB2016/1539, dated 30 June 2017, and subject to the conditions listed at the end of the decision.
2. That Members note that the application for costs was DISMISSED.

A copy of the decisions are attached.

Background

The long-established Harrycroft Quarry lies in open countryside to the north-west of Worksop and near the village of South Anston. The overall site extends to some 38ha with operations including limestone extraction as well as importation of inert materials for backfilling and restoration. Vehicular access from the A57 is via a hard-surfaced road which also serves Anston Grange Farm to the east.

The application was refused by Members at Planning Board on 22nd June 2017 against Officer's advice for the following reason:

01
The Council considers that the A57 Worksop Road at, and in the vicinity of, the site access is unsuitable to safely cater for the additional HGV traffic entering and leaving the site. The speed and volume of traffic on Worksop Road where overhanging vegetation restricts visibility such that the slowing and turning of HGV's in the relatively narrow carriageway would conflict with other traffic, to the detriment of road safety on one of the Borough's key transport routes.

Inspector's Decision

The Inspector considered that the main issue was the implications of the proposal for highway safety on the A57.

The Inspector noted that: "the A57 is a key transport route both within the Borough and sub-regionally and accordingly carries a high volume of traffic, as I saw at my site visit. The access to the quarry from the main road comprises a T-junction with auxiliary lanes on both sides to accommodate incoming and departing vehicles. Amongst other things, the Council is concerned that the access is unsuitable to cater for the additional HGV traffic entering and leaving the site via the A57.

The Transport Assessment anticipates an average of 8 haulage vehicle movements/hour (4 in/4 out) and up to a maximum of 13 vehicle movements/ hour (6.5 in/6.5 out), with a directional split of 75% vehicles to/from the west and 25% to/from the east".

The Inspector noted that: "The appellant's survey of traffic in the vicinity of the access indicates that the 85th percentile speeds on the A57 are 3.1mph above the 50mph speed limit eastbound and 0.6mph above the limit westbound. As such, there is no evidence to show that the road is subject to speeds materially in excess of the posted limit.

The submitted traffic data indicates that traffic levels on the A57 in the vicinity of the appeal site have not increased significantly over the last 12 years. In terms of traffic volume, the appellant's highway evidence includes a modelled junction capacity assessment which shows that the access is capable of accommodating vehicular movements generated by the extended quarrying

and associated operations proposed on the site. Even if predicted future traffic growth occurs on the local highway network, the evidence shows that the site access has the capacity to serve the extended quarrying activities to 2033".

The Inspector noted that: "The access has therefore served the quarry for some significant time without incident. There are no records of accidents that are directly attributable to the use of the access by vehicles associated with the previous quarrying operations on the land. There are no material changes in the nature of the use of the access arising from the appeal proposal that would adversely affect the operational ability and capacity of the access to serve the quarry. Moreover, there have been no changes in highway design standards since the permission associated with the appeal scheme".

The Inspector concluded that, having regard to the prevailing highway conditions, and subject to the provision of the measures volunteered by the appellant by way of condition and planning obligation, the operations on the site as a result of the appeal proposal would not materially harm highway safety on the A57.

He considered that the conditions suggested by the main parties are imposed with some minor modification and added precision in the interests of clarity and having regard to relevant provisions in the Planning Practice Guidance.

Conditions

The decision notice includes 45 conditions, some of which are 'pre-commencement' conditions that have to be addressed before the development takes place.

Costs Appeal

The appellant had requested costs on the basis that the Council had acted unreasonably though the Inspector noted that: "Despite my findings on the highway merits of the proposal, I consider that the Council has satisfactorily demonstrated how it considered the proposal would compromise highway safety on the A57 in the vicinity of the site access".

The Inspector therefore found that: "unreasonable behaviour resulting in unnecessary or wasted expense, as described in the National Planning Practice Guidance, has not been demonstrated and the application for an award of costs fails".